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Part V

Environmental Protection Agency

Effluent Guidelines Plan; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL-41866]

RIN 2040-AA90

Effluent Guidelines Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of effluent guidelines plan.

SUMMARY: This notice announces the Agency's plan for developing new and revised effluent guidelines, which regulate industrial discharges to surface waters and publicly owned treatment works (POTWs). Section 304(m) of the Clean Water Act requires EPA to publish a biennial Effluent Guidelines Plan.

EFFECTIVE DATE: October 8, 1992.

ADDRESSES: The public record for this notice is available for review in EPA's Headquarters Library, room M2404, 401 M Street SW., Washington, DC. The EPA public information regulation (40 CFR part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Eric Strassler, Engineering and Analysis Division (WH-552), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone 202-260-7150.

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I. Legal Authority

This notice is published under the authority of section 304(m) of the Clean Water Act, 33 U.S.C. 1314(m).

II. Introduction

A. Purpose of Today's Notice

Today's notice announces the Agency's second biennial Effluent Guidelines Plan for developing new and revised effluent guidelines pursuant to section 304(m) of the Clean Water Act (CWA).

EPA proposed this plan on May 7, 1992 (57 FR 19748) ("Proposed Plan"). The Agency invited comment on the notice until June 8, 1992. Today's notice summarizes and addresses the major comments the Agency received.

B. Overview of Today's Notice

The Agency intends to develop effluent limitation guidelines and standards ("effluent guidelines") as follows:

1. Continue development of the nine ongoing rules: Pulp, Paper and Paperboard; Pesticide Chemicals (Manufacturing); Pesticide Chemicals (Formulating and Packaging); Offshore Oil and Gas Extraction; Coastal Oil and Gas Extraction; Organic Chemicals, Plastics and Synthetic Fibers (Remand); Waste Treatment; Pharmaceutical Manufacturing; and Metal Products and Machinery, Phase 1.

2. Develop effluent guidelines for each of the following point source categories: Waste Treatment, Phase 2; Industrial Laundries; Transportation Equipment Cleaning; and Metal Products and Machinery, Phase 2.

3. Begin approximately two preliminary studies of particular point source categories each year. Each preliminary study will generally take approximately two years to complete.

4. Start development of additional guidelines (either new or revised). Point source categories will be identified in future biennial Effluent Guidelines Plans. Eight rules would be begun on a staggered basis during the years 1996 to 1999 with final action between 2000 and 2003.

These actions are identical to those described in the Proposed Plan.

III. 1992 Proposed Effluent Guidelines Plan

In the Proposed Plan, EPA described its intent to continue development of 9 ongoing rulemakings, develop 12 new rules over an 11 year period, and conduct 11 preliminary studies over a 6 year period. The Proposed Plan set forth EPA's rationale for the selection of particular industries as candidates for

new or revised effluent guidelines. The Proposed Plan also described the relevant statutory framework, the components and process for development of an effluent guidelines regulation, and other background information. The principal elements of the Proposed Plan were designed to implement sec. 304(m) and a consent decree in *Natural Resources Defense Council et al. v. Reilly* (D.D.C. 89-2980, January 31, 1992) (the "Consent Decree"). See 57 FR 19750-19755.

IV. 1992 Effluent Guidelines Plan

EPA's 1992 Effluent Guidelines Plan is set forth below. Today's Plan is substantively identical to the Proposed Plan. As noted above, the basis for selection of the industries identified in today's Plan is described in the Proposed Plan. This plan is based on funding levels proposed by the President's Budget for fiscal year 1993. If these levels cannot be achieved EPA will have to evaluate the impact on the Plan's schedules.

A. Regulations

1. Ongoing Rulemakings

EPA is currently in the process of developing new or revised effluent guidelines for nine categories. These rulemakings will proceed as previously described in the Proposed Plan. The current schedules for these rules are set forth in Table 1.

TABLE 1.—EFFLUENT GUIDELINES CURRENTLY UNDER DEVELOPMENT

Category	Proposal	Final action
Offshore Oil and Gas Extraction ¹	11/26/90 & 3/13/91	1/93
Organic Chemicals, Plastics and Synthetic Fibers (Remand issues)	12/6/91	5/93
Pesticide Chemicals (Manufacturing)	4/10/92	7/93
Pulp, Paper and Paperboard ²	10/93	9/95
Pesticide Chemicals (Formulating and Packaging)	1/94	8/95
Waste Treatment (Phase 1)	4/94	1/96
Pharmaceutical Manufacturing	8/94	2/96
Metal Products and Machinery (Phase 1)	11/94	5/96
Coastal Oil and Gas Extraction	1/95	7/96

¹ The Offshore Oil and Gas Extraction rulemaking is not covered under the January 31, 1992 Consent Decree. The deadline is required by a Consent Decree in *NRDC v. Reilly* (D.D.C. No. 79-3442).

² The Pulp, Paper and paperboard rulemaking is not covered under the January 31, 1992 Consent Decree. Deadlines are required by a Consent Decree in *Environmental Defense Fund et al. v. Thomas* (D.D.C. No. 85-0973).

2. New Rulemakings

EPA intends to develop 12 new effluent guidelines over an 11 year period. Four of the rules are specified; the remaining eight rules will be specified in future Effluent Guidelines Plans. This schedule for developing the guidelines is set forth in Table 2, and is identical to the schedule in the Proposed Plan.

TABLE 2.—NEW CATEGORIES TO BE REGULATED

Category	Proposal	Final action
Waste Treatment, Phase 2	1995	1997
Industrial Laundries	1996	1998
Transportation Equipment Cleaning	1996	1998
Metal Products and Machinery, Phase 2	1997	1999
Eight additional categories	1998–2001	2000–2003

EPA will include any updates to these schedules in the semi-annual Regulatory Agenda published in the Federal Register.

B. Preliminary Studies

In the Proposed Plan EPA announced that it intended to conduct 11 preliminary studies, which will assist the Agency in selecting industries for the eight remaining rules discussed in Section IV.A.2 above (see 57 FR 19752, 19755).

The Agency is proceeding as proposed with studies for the Metal Finishing Category (40 CFR part 433) and the Petroleum Refining Category (40 CFR part 419). These studies are underway and are scheduled to be completed by the end of 1993. The findings will be published in Preliminary Data Summaries, and will be considered in preparation of the 1994 Effluent Guidelines Plan.

EPA intends to conduct nine additional studies. Six industries (all of which are currently subject to effluent guidelines) were tentatively identified in the Proposed Plan as the subject of future studies, with two studies to begin in each of 1993, 1994 and 1995. These are Iron and Steel Manufacturing (40 CFR part 420), Inorganic Chemicals (40 CFR part 415), Leather Tanning and Finishing (40 CFR part 425), Coal Mining (40 CFR part 434), Onshore/Stripper Oil and Gas Extraction (40 CFR part 435), and Textile Mills (40 CFR part 410). The Agency intends to study three additional categories, not yet identified, beginning in 1997. Other industries, identified through review of new information made available to the Agency, may be

studied. Each Preliminary Study would take approximately two years to complete. Updated information on industry studies will be included in the next biennial Effluent Guidelines Plan.

C. Summary of Changes from Proposed Plan

Today's Effluent Guidelines Plan is substantively identical to the Proposed Plan. However, some clarifications are provided below in response to several comments the Agency received on the proposal.

V. Public Comments

The public comment period for the Proposed Plan closed on June 8, 1992. The Agency received comments that covered approximately 12 topics from 10 commenters, including industries, local governments (POTWs), and an environmental group. EPA also considered seven comment letters received after publication of the January 2, 1990 Effluent Guidelines Plan (55 FR 80). The summary is in this section highlights the more significant comments submitted. The administrative record for today's notice includes a complete text of the comments and the Agency's responses.

A. Metal Products and Machinery Category

Two POTWs expressed reservations about the feasibility of regulating the Metal Products and Machinery (MP&M) Category. They were concerned that implementing categorical standards for a large number of MP&M facilities in a local pretreatment program would be overly burdensome to POTWs and hinder their ability to effectively run their programs. While they did not disagree with EPA's assertions that the overall MP&M category is a significant source of toxic and nonconventional pollutants, they believed that attention should be focused on the larger facilities in the category.

EPA's Proposed Plan included a brief working description of the MP&M category. This working description is subject to change, pending collection and analysis of additional data, prior to promulgation of an effluent guideline for this category. The description in the Proposed Plan included an estimate of 970,000 facilities in the category nationwide. This figure was derived from mailing lists that EPA purchased for the purpose of sending survey questionnaires to a statistical sample of the industry.

The Agency has administered questionnaires focused primarily on MP&M Phase 1 facilities and is now analyzing the surveys along with other

information it is gathering on the industry. Preliminary assessments of the Phase 1 survey information indicate that the overall size of the MP&M category is significantly smaller than the initial estimate of 970,000 facilities. The Phase 1 survey responses indicate that the information sources used to compile the Agency's mailing list included sites without manufacturing activities such as sales offices, warehouses, and company headquarters. EPA currently projects that there are 80,000 active Phase 1 sites rather than the initial estimate of 195,000. If similar trends are observed in the planned Phase 2 survey, then the number of Phase 2 sites would be projected to be about 318,000 instead of the initial estimate of 775,000.

The Notices of Proposed Rulemaking and accompanying Development Documents will provide a fuller description of the category. EPA believes that when the MP&M rules (Phases 1 and 2) are proposed, there will be a clearer and smaller estimate of the category size, and an acceptable balance between addressing serious pollutant discharges and maintaining a manageable compliance and enforcement workload at POTWs.

B. Basis for Conducting Preliminary Studies

Four industry associations questioned the need for conducting preliminary studies of existing effluent guidelines affecting their industries—Coal Mining, Iron and Steel Manufacturing, and Leather Tanning and Finishing. In the case of the Coal Mining Category, the commenter argued that in general the industry does not discharge toxic or nonconventional pollutants and that current pollutant discharges are at low concentrations (which are too small to be effectively reduced by additional treatment technology). Regarding the Iron and Steel and Leather Tanning and Finishing Categories, the commenters stated that the existing regulations were adequately protective of human health and the environment.

EPA conducted a brief review of documents supporting the existing Coal Mining effluent guidelines and estimated that high loadings of metal pollutants continue to be discharged by the category, after application of BAT-level (best available technology) limitations. These pollutants are predominantly inorganic: Antimony, arsenic, chromium, copper, lead, nickel, selenium, silver, thallium, and zinc; as well as phenol. While the Agency agrees with the commenter that these pollutants tend to be found in low concentrations in mine discharges, the nationwide pollutant

above, or (ii) the Court holds that, in making such decision, EPA properly exercised its discretion under applicable law, then such decision shall satisfy any and all obligations of EPA under this Decree with respect to such point source category.

(b) Any decision by the Administrator not to proceed with an effluent guideline pursuant to Paragraph 6(a)(1) above shall be included in the first 304(m) Plan proposed following such determination.

(c) (1) Notwithstanding the provisions of Paragraph 6(a), EPA will take final action with respect to twelve (12) effluent guidelines (in addition to those listed in Paragraph 2) before December 31, 2003 unless, after analysis of the eleven (11) studies undertaken pursuant to Paragraph 3 and the seven (7) studies already completed, the Administrator determines, pursuant to any discretion the Administrator has under the Clean Water Act, 33 U.S.C. 1251-1387, or any other legal authority, that fewer than twelve (12) of the eighteen (18) total point source categories studied merit proposal of effluent guidelines pursuant to the standards set forth in Paragraph 6(a)(1). In such case, EPA will undertake studies of additional categories of point sources to determine whether the promulgation of additional effluent guidelines is appropriate. EPA will state its intention to conduct any such additional studies in 304(m) Plans.

(2) EPA will notify plaintiffs within thirty (30) days after any decision pursuant to Paragraph 6(c)(1) not to take final action with respect to twelve (12) effluent guidelines (in addition to those effluent guidelines listed in Paragraph 2) before December 31, 2003. Plaintiffs may challenge such decision by

following the procedures set forth in Paragraph 6(a)(3) above. In the event the Court holds that EPA lacks the authority to make such a decision, the Court will establish a new schedule for taking final action on the remaining effluent guidelines.

Appendix B—Effluent Guidelines Currently Under Development, New Categories to be Regulated, and Preliminary Studies

EFFLUENT GUIDELINES CURRENTLY UNDER DEVELOPMENT

Category	40 CFR Part	Proposal	Final action
Offshore Oil and Gas Extraction.....	435	3/13/92	1/93
Organic Chemicals, Plastics and Synthetic Fibers (Remand).....	414	12/6/91	5/93
Pesticides Manufacturing.....	455	4/10/92	7/93
Pulp, Paper and Paperboard.....	430	10/93	9/95
Pesticides Formulating and Packaging.....	455	1/94	8/95
Waste Treatment, Phase 1.....	437	4/94	1/96
Pharmaceutical Manufacturing.....	439	8/94	2/96
Metal Products and Machinery, Phase 1.....	438	11/94	5/96
Coastal Oil and Gas Extraction.....	435	1/95	7/96

* NEW CATEGORIES TO BE REGULATED

Category	40 CFR Part	Proposal	Final action
Waste Treatment, Phase 2.....	437	1995	1997
Industrial Laundries.....	441	1996	1998
Transportation Equipment Cleaning.....	442	1996	1998
Metal Products and Machinery, Phase 2.....	438	1997	1999
Eight additional categories.....		1998-2001	2000-03

PRELIMINARY STUDIES

Category	40 CFR Part	Start	Complete
Petroleum Refining.....	419	1992	1993
Metal Finishing.....	433	1992	1993
Iron and Steel Manufacturing.....	420	1993	1994
Inorganic Chemicals.....	415	1993	1994
Leather Tanning and Finishing.....	425	1994	1995
Coal Mining.....	434	1994	1995
Onshore/Stripper Oil and Gas Extraction.....	435	1995	1996
Textile Mills.....	410	1995	1996
Three additional categories.....		1996	1997

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